

SPECIAL USE PERMIT

FILE NO.	SP19-022
LOCATION OF PROPERTY	Located at the northwest corner of Chauncey Way and Via Pisa (633 Chauncey Way).
ZONING DISTRICT	R-1-8 Single-Family Residence
GENERAL PLAN DESIGNATION	Residential Neighborhood
PROPOSED USE	Special Use Permit to allow a new 1,210-square foot detached garage to an existing single-family residence on a 0.34-gross acre site.
ENVIRONMENTAL STATUS	Exempt per CEQA Guidelines 15303(e) for New Construction or Conversion of Small Structures.
OWNER/APPLICANT	John and Carol Coen 633 Chauncey Way San José, CA 95128

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts and findings regarding this proposed project:

1. **Project Description.** Special Use Permit to allow a 1,210-square foot detached garage to an existing single-family residence on a 0.34-gross acre site. The detached garage includes a 285-square foot workshop area and a 295-square foot storage area. The project includes the removal of existing accessory structures. The gazebo and covered patio would remain.
2. **Site Description and Surrounding Uses.** The subject site is located on the northwest corner of Chauncey Way and Via Pisa. The site is currently developed with a single-family residence. The site is surrounded by a parking lot to the west and single-family residences to the north, east, and south.
3. **General Plan Conformance.** The subject site has a designation of Residential Neighborhood use on the adopted Envision San José 2040 General Plan Land Use/Transportation Diagram. The new construction retains the existing single-family uses, the garage incorporates architectural features similar to those of the single-family residence, thereby preserving the existing character of the neighborhood and is consistent with the Residential Neighborhood General Plan land use. The proposed project is consistent with the following General Plan Policy:

Land Use Policy LU-11.6: For new infill development, match the typical lot size and building form of any adjacent development, with particular emphasis given to maintaining consistency with other development that fronts onto a public street to be shared by the proposed new project.

Analysis: The single-family residence does not have a garage. The addition of a garage would be consistent with the neighborhood. The massing and form of the proposed detached accessory building is consistent with the surrounding neighborhood, in that properties on Chauncey Way and Via Pisa have a detached accessory building located in the rear yard.

4. **Zoning Code Compliance.** The subject site is located in the R-1-8 Single Family Residence Zoning District.
 - a. Under the provisions of Section 20.30.500 of the San José Municipal Code, residential properties are permitted to have a maximum of 650 square feet for accessory buildings and structures. However, this square footage may be increased pursuant to a Special Use Permit as provided in Chapter 20.100, Part 7. The proposed project would result in a 1,210-square foot accessory building. The project is consistent with the regulations of the Zoning Ordinance in the following manner:
 - i. **Setbacks.** The proposed detached garage is set back approximately 110 feet from the front property line, conforming to the minimum setback of 60 feet for accessory structures. No side or rear setbacks are required. The proposed project includes an 18-foot side setback from the westerly property line, an approximately 31-foot side setback to the easterly property lines, and an approximately 34-foot rear setback. The garage is set back from the residence by approximately eight feet and conforms to the minimum six-foot requirement.
 - ii. **Height.** Pursuant to Section 20.30.530, the maximum height of an accessory building with a sloped roof may exceed twelve feet provided the height halfway up any slope of a pitched, gable, or hip roof does not exceed twelve feet and no portion of the accessory building exceeds a maximum height of sixteen feet. The proposed accessory building is approximately 11.9 feet in height as measured at the midpoint of the pitched roof slope and is approximately 15.5 feet in height as measured at the roof peak, consistent with the height limits for accessory structures.
 - iii. **Use.** Pursuant to Section 20.200.20, an accessory building cannot contain living space or sleeping quarters, and is limited to two plumbing fixtures, and must be unconditioned space. No plumbing fixtures are proposed in the accessory buildings, and therefore, conforms to this requirement.
 - iv. **Rear Yard Coverage.** The garage and existing accessory structures to remain have a rear yard coverage of 19%, which is below the maximum allowed rear yard coverage of 30% for accessory buildings and structures.
5. **Environmental Review.** The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties. Section 15303(e) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) exempts accessory structures.
 - a. The proposed garage is considered an accessory structure that serves the existing single-family residences. The project is not anticipated to have negative affect as it is not intensifying the existing use.
6. **Special Use Permit Findings.** Chapter 20.100 of Title 20 of the San José Municipal Code establishes required findings for issuance of a Special Use Permit, which findings are made for the Project based on the above-stated findings related to General Plan, Zoning and CEQA

conformance and for the reasons stated below, and subject to the conditions set forth in this Permit.

- a. The Special Use Permit, as approved, is consistent with and will further the policies of the General Plan and applicable Specific Plans and Area Development Policies; and

Analysis: This Special Use Permit is consistent with the General Plan in that the proposed project would improve an existing single-family residence which conforms to the Residential Neighborhood General Plan land use. The proposed accessory building would not change the residential character of the existing development. Therefore, the proposed accessory building is consistent with the provisions in this policy. The proposed accessory building is not subject to any Specific Plan or Area Development Policy.

- b. The Special Use Permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project; and

Analysis: As stated above, the proposed accessory building is consistent with the Zoning Ordinance in terms of location, height, setbacks, and rear yard coverage per the Zoning Ordinance.

- c. The Special Use Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and

Analysis: The project was duly noticed per Council Policy 6-30: Public Outreach Policy for pending land use and development proposals. A project information sign was posted on site and a notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site.

- d. The proposed use at the location requested will not:

- i. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
- ii. Impair the utility or value of property of other persons located in the vicinity of the site; or
- iii. Be detrimental to public health, safety, or general welfare; and

Analysis: The proposed garage will be architecturally compatible with the main residence. The garage will facilitate vehicle parking and storage, which are typical uses in single-family residential neighborhoods, thereby preserving the residential character the neighborhood and site. The accessory building will not deteriorate the peace, health, and safety, morals, or welfare of the surrounding area as it would be located in the rear yard of the property and will maintain the character of similar pattern of detached accessory building in the neighborhood.

- e. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate the use with existing and planned uses in the surrounding area; and

Analysis: The site is adequate in size and shape for the garage to meet the required development standards. The proposed garage is set back approximately 110 feet from the front property line, exceeding the minimum 60 feet for accessory structures. The rear yard coverage of the garage is 19%, which is below the maximum allowed for accessory structure and buildings.

- f. The proposed site is adequately served:
- i. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
 - ii. By other public or private service facilities as are required.

Analysis: The subject property is served by Chauncey Way and Via Pisa. The proposed garage would not create additional traffic on site.

In accordance with the findings set forth above, a Special Use Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement of the applicant to be bound by, to comply with, and do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such permit.
2. **Permit Expiration.** This Permit shall automatically expire four years from and after the date of issuance hereof by said Director, if within such time period, a Building Permit has not been obtained. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions.
4. **Conformance with Plans.** The development of the site shall conform to the approved Special Use Permit plans entitled, "New Construction for John Coen" received September 7, 2020, on file with the Department of Planning Building and Code Enforcement.
5. **Anti-Graffiti.** During construction, the applicant shall remove all graffiti from buildings, walls and other surfaces within 48 hours of defacement. Upon project completion and/or transfer of ownership, the property owner, and/or Maintenance District shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
6. **Building Materials.** All building materials are to be those specified on the Approved Plan Set.
7. **Hours of Construction.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.

8. **Garage Parking Spaces for Residential Projects.** All garage parking spaces on the approved Special Use Permit plans are to be used only as such and should be kept free and clear of all obstructions.
 - a. The proposed garage, with a workshop area and storage within the rear portion of the building, shall not contain living spaces or sleeping quarters, and shall be limited to two plumbing connections to serve an appliance or fixture, and unconditioned space as defined in Title 24 of the San José Municipal Code.
9. **Hours of Construction.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
10. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance.
11. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend buildings, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
12. **Building Clearance for Issuing Permits.** Prior to issuance of a building permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* The permit file number, SP19-022, shall be printed on all construction plans submitted to the Building Division.
 - b. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permit and applicable conditions.
13. **Revocation, Suspension, Modification.** This Special Use Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Special Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. a violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

APPROVED and issued on this **28th of October, 2020.**

Rosalynn Hughey, Director
Planning, Building, and Code Enforcement

Deputy